

## UIdaho Law Digital Commons @ UIdaho Law

---

Not Reported

Idaho Supreme Court Records & Briefs

---

9-19-2017

# State v. Trombetti Respondent's Brief Dckt. 44980

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/not\\_reported](https://digitalcommons.law.uidaho.edu/not_reported)

---

### Recommended Citation

"State v. Trombetti Respondent's Brief Dckt. 44980" (2017). *Not Reported*. 3962.  
[https://digitalcommons.law.uidaho.edu/not\\_reported/3962](https://digitalcommons.law.uidaho.edu/not_reported/3962)

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ UIdaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ UIdaho Law. For more information, please contact [annablaine@uidaho.edu](mailto:annablaine@uidaho.edu).

LAWRENCE G. WASDEN  
Attorney General  
State of Idaho  
P.O. Box 83720  
Boise, Idaho 83720-0010  
(208) 334-4534

PAUL R. PANTHER  
Deputy Attorney General  
Chief, Criminal Law Division

JESSICA M. LORELLO  
Deputy Attorney General

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 44980
Plaintiff-Respondent,	)	
	)	Canyon County Case No.
v.	)	CR-2016-12014
	)	
BLAISE TROMBETTI,	)	
	)	RESPONDENT'S BRIEF
Defendant-Appellant.	)	
_____	)	

Issue

Has Trombetti failed to establish the district court abused its discretion, either by imposing a unified sentence of 10 years, with four years fixed, for domestic battery with traumatic injury or by relinquishing jurisdiction?

Trombetti Has Failed To Establish That The District Court Abused Its Sentencing Discretion

Trombetti pled guilty to domestic battery with traumatic injury, and the district court imposed a unified sentence of 10 years, with four years fixed, and retained jurisdiction. (R., pp.62-64.) The district court subsequently entered an order relinquishing jurisdiction from which Trombetti filed a timely notice of appeal. (R., pp.65-66, 75-77.)

Trombetti asserts his sentence is excessive in light of his difficult childhood, drug addiction, and his purported remorse and acceptance of responsibility. (Appellant’s Brief, pp.3-5.) The record supports the sentence imposed.

When evaluating whether a sentence is excessive, the court considers the entire length of the sentence under an abuse of discretion standard. State v. McIntosh, 160 Idaho 1, 8, 368 P.3d 621, 628 (2016); State v. Stevens, 146 Idaho 139, 148, 191 P.3d 217, 226 (2008). It is presumed that the fixed portion of the sentence will be the defendant's probable term of confinement. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 687, 391 (2007). Where a sentence is within statutory limits, the appellant bears the burden of demonstrating it is a clear abuse of discretion. McIntosh, 160 Idaho at 8, 368 P.3d at 628 (citations omitted). To carry this burden the appellant must show the sentence is excessive under any reasonable view of the facts. Id. A sentence is reasonable if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution. Id. “In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.” McIntosh, 160 Idaho at 8, 368 P.3d at 628 (quoting Stevens, 146 Idaho at 148-49, 191 P.3d at 226-27). Furthermore, “[a] sentence fixed within the limits prescribed by the statute will ordinarily not be considered an abuse of discretion by the trial court.” Id. (quoting State v. Nice, 103 Idaho 89, 90, 645 P.2d 323, 324 (1982)).

The maximum prison sentence for domestic battery with traumatic injury is 10 years. I.C. § 18-918(2). The district court imposed a unified sentence of 10 years, with four years fixed, which falls within the statutory guidelines. (R., pp.62-64.) The sentence was also warranted by the conduct underlying the charge in this case. Trombetti became angry at the victim, Michelle, because she “was away from the house for approximately one hour and left

without him.” (PSI, p.3.) When Michelle tried to call the police, Trombetti “put his forearm across [Michelle’s] neck,” “put one of his hands over her mouth, restricting her ability to breathe,” and “punched her in the head several times.” (PSI, p.3.) When Michelle tried to run away, Trombetti “drug her back inside the residence and threw her on the couch,” “grabbed a steak knife from the kitchen,” and ran towards Michelle with the knife in his hand. (PSI, p.3.) “The dispatch operator could hear Michelle crying hysterically and [Trombetti] in the background calling Michelle a whore.” (PSI, p.2.) As a result of the altercation, Michelle had scratches on her legs and cuts on her hands. (PSI, p.3.) Under any reasonable view of the facts, Trombetti’s 10-year sentence, with four years fixed, is not excessive.

Trombetti claims otherwise, noting his “difficult childhood and his history of drug addiction, along with the potential to overcome that addiction, serve as strong mitigation in his case.” (Appellant’s Brief, p.4.) While potentially mitigating, none of these factors required the court to impose a lesser sentence. With respect to Trombetti’s “history of drug addiction,” the district court specifically acknowledged Trombetti’s “significant substance [abuse] issue” prior to imposing sentence, but concluded that the objectives of sentencing warranted a 10-year sentence, with four years fixed, with the opportunity to participate in the retained jurisdiction program. (Sent. Tr., p.19, L.14 – p.20, L.6.) Further, although addiction may be central to Trombetti’s criminal conduct, it is his obligation to not only acknowledge his addiction, but to address it rather than use it as an excuse; Trombetti has failed to do so. Instead, Trombetti stopped attending outpatient substance abuse treatment after “approximately one month” and told the presentence investigator that he “desires sobriety,” but “does not believe he needs treatment at this time.” (PSI, p.11.) Trombetti has failed to meet his burden of showing that his 10-year sentence, with four years fixed, for domestic battery with traumatic injury is excessive.

Trombetti next argues that the district court abused its discretion by relinquishing jurisdiction, claiming the district court did so “without sufficient information to make the determination that a suspended sentence and probation would be inappropriate.” (Appellant’s Brief, p.5.) This is so, Trombetti claims, because he was only allowed to participate in the retained jurisdiction program for two months, rather than the full 365 days allowed by I.C. § 19-2601(4). (Appellant’s Brief, p.5.) This claim also fails.

Whether to place a defendant on probation or relinquish jurisdiction are both matters within the sound discretion of the trial court and will not be overturned on appeal absent an abuse of that discretion. I.C. § 19-2601(4); see State v. Hood, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); State v. Lee, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). A court’s decision to relinquish jurisdiction will not be deemed an abuse of discretion if the trial court has sufficient information to determine that a suspended sentence and probation would be inappropriate under I.C. § 19-2521. State v. Chapel, 107 Idaho 193, 194, 687 P.2d 583, 584 (Ct. App. 1984).

Trombetti’s participation in the retained jurisdiction program, while brief and shorter than the maximum period of time authorized, was defined by poor behavior. Trombetti received three formal disciplinary sanctions in less than one month, and 18 informal sanctions in the span of 48 days. (PSI, p.58.) Trombetti “argue[d] about any feedback he receive[d],” failed to “implement anything into his daily life,” and “[e]ventually” got “angry and stop[ped] participating.” (PSI, p.60.) Trombetti demonstrated a “lack” of “desire for change,” “minimize[d] his actions,” much like he did in relation to his underlying criminal offense, and “staff shop[ped]” to “get the answer he [was] seeking.” (PSI, p.60; Sent. Tr., p.18, L.21 – p.19, L.5.) According to Trombetti, the rules were “stupid” and he apparently did not think he needed to follow them based on his belief

that the court would not “send [him] to do [his] time for not tucking in [his] shirt or for using the restroom.” (PSI, p.62.) As a result of Trombetti’s poor attitude and behavior, NICI staff recommended relinquishment after approximately two months. (PSI, p.55.) The district court followed that recommendation. (R., pp.65-66.) Contrary to Trombetti’s argument, the district court had more than enough information (21 total sanctions in 48 days) to determine that Trombetti was not a good candidate for probation. Trombetti’s view that he does not have to abide by rules if he believes the rules are “stupid” is exactly the opposite of the attitude required for a successful probationer. It is irrelevant whether Trombetti’s “violations” could be characterized as “severe” or “criminal” (Appellant’s Brief, p.5), but it is relevant that he cannot follow rules, which is what probation requires. Neither NICI nor the district court were obligated to accommodate Trombetti’s attitude or behavior for any additional time, much less the full 365 days available, before concluding that relinquishment was the proper course of action. Trombetti has failed to meet his burden of showing otherwise.

### Conclusion

The state respectfully requests this Court to affirm Trombetti’s conviction and sentence and the district court’s order relinquishing jurisdiction.

DATED this 19th day of September, 2017.

/s/ Jessica M. Lorello  
JESSICA M. LORELLO  
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 19th day of September, 2017, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

KIMBERLY A. COSTER  
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: [briefs@sapd.state.id.us](mailto:briefs@sapd.state.id.us).

/s/ Jessica M. Lorello  
JESSICA M. LORELLO  
Deputy Attorney General